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NORTH OGDEN CITY COUNCIL MINUTES

October 9, 2012

The North Ogden City Council convened in an open meeting on October 9, 2012 at 6:35 pm in the North Ogden City Council Chambers at 505 East 2600 North. Notice of time, place and agenda of the meeting was delivered to each member of the City Council, posted on the bulletin board at the municipal office and posted to the Utah State Website on October 5, 2012. Notice of the annual meeting schedule was published in the Standard-Examiner on January 16, 2012.

PRESENT:	Richard G. Harris	Mayor
	Kent Bailey	Council Member
	Wade Bigler	Council Member
	Justin Fawson	Council Member
	Cheryl Stoker	Council Member
STAFF PRESENT:	Annette Spendlove	HR Director/City Recorder
	Bryan Steele	Finance Director
	Jon Call	City Attorney
	Craig Barker	Community Development Director
	Gary Kerr	Building Official
EXCUSED:	Brent Taylor	Council Member
VISITORS:	Kevin Burns	Rachel Trotter
	DeAnn Burns	Art Stowers
	Phillip Swanson	Pegge Stowers
	Marjean Swanson	

Mayor Harris welcomed those in attendance.

Council Member Fawson offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. Consideration to approve the minutes of the September 25, 2012 City Council meeting.
2. Consideration to approve business licenses.

Council Member Bailey moved to approve the Consent Agenda. Council Member Fawson seconded the motion.

Voting on the motion:

Council Member Bigler	aye
Council Member Stoker	aye
Council Member Fawson	aye
Council Member Bailey	aye

The motion passed unanimously.

51 **ACTIVE AGENDA**

52
53 Mayor Harris invited anyone who may have a comment to approach the podium to speak.

54
55 **PUBLIC COMMENTS.**

56
57 Alana Fawson, 2533 N. 1600 E., thanked the City for having the students from her school, Venture
58 Academy, at the City Offices today. She said it was great to learn about how City Councils work.

59
60 Council Member Fawson commented there were 100 first and second graders here at the City Offices
61 from 9am to 11:30am. He said they had a civics lesson and performed in a mock City Council meeting.
62 He said they all chose to talk about chickens. He said it was a great group and a lot of fun. He thanked
63 Annette Spendlove, City Recorder, for her help.

64
65 **1. DISCUSSION AND/OR ACTION REGARDING LARGE ACCESSORY BUILDINGS.**

66
67 Craig Barker, Community Development Director, reviewed the staff report. He reminded the Council
68 that a few City Council meetings ago the issue of where large accessory buildings could be located was
69 brought up. There was a resident that had an issue and the City Council asked the Planning Commission
70 to review this item. He stated he has provided a copy of the Planning Commission minutes of the
71 discussion. He said the Planning Commission recommended the ordinance remain the same. He stated
72 the City Council has the option to ask legal counsel to prepare an ordinance, which is sent to the Planning
73 Commission. He said the Planning Commission would then need to hold a public hearing and those
74 results would be sent to the City Council for their decision. He said any citizen can petition the City to
75 change an ordinance and would also go to the Planning Commission for a public hearing and then be
76 forwarded to the City Council for their decision.

77
78 Council Member Bigler said Jon Call, City Attorney, and Ron Chandler, City Manager, previously stated
79 that this does not need to go back and forth and that the Council has the option of having public
80 comments rather than public hearings. Jon Call stated that once the Planning Commission holds a public
81 hearing on a zoning ordinance the City Council can adopt, modify, or completely reject the change. He
82 said all the State Statute requires is that the Planning Commission hold a public hearing first and provide
83 the City Council with a recommendation. The City Council can then take action in any direction from
84 there. He said the City Council does not have to hold a public hearing; they can ask for public comment
85 on that specific issue.

86
87 Council Member Bigler clarified that the Planning Commission did not hold a public hearing. Craig
88 Barker replied that they reviewed what the City Council asked them to review. He said there was some
89 concern about height issues rather than were there are located on the property.

90
91 Council Member Bigler stated City Council provided a couple of considerations to take back to the
92 Planning Commission; to lower the height of the structure to allow it to be closer to the property line, and
93 to take into account the size of the lot. Craig Barker said he did discuss those items with the Planning
94 Commission and there was talk about the RE-20 zone. He said he thinks if the Planning Commission had
95 some specific ideas they would have taken some action with regard to those.

96
97 Council Member Bigler said he feels the same as he did during the last City Council meeting. He said he
98 has tried hard to protect residential neighborhood, trying to keep the Public Works facility out of
99 residential neighbors, and so forth. He said on issues like this they need to use some common sense. He
100 said he would like to see the height requirement lowered and allow them to be closer to the property line.
101 Craig Barker explained the regulation states if the building is 15 feet or lower it can be within 15 feet of

102 the property line. Council Member Bigler said that puts the building right in the middle of the back yard.
103 Craig Barker stated that is right if you are looking at lots that are 10,000 square feet or less. He said if it
104 is on an RE-20 lot there is a great amount of property on which to put the accessory building.
105

106 Council Member Bigler said he would like the Planning Commission to look at lowering the height and
107 look at the size of lots. Craig Barker suggested he and Jon Call create an amended ordinance.
108

109 Mayor Harris said he thinks there are issues with having the large accessory building in the residential
110 zones, especially with the smaller lots. He said that is a basic philosophy the City Council needs to
111 address. He suggested they address specific zones or specific lot sizes.
112

113 Council Member Bailey agrees with Mayor Harris. He said he is aware of a number of large accessory
114 buildings that are out of place in these zones. He said he thinks they need to be careful to make sure they
115 are doing the right thing for the city overall rather than just making exceptions because they have a
116 difficult situation.
117

118 Council Member Fawson said it all comes down to a discussion Craig Barker had. He said one of the
119 biggest conflicts arises when a structure has an impact on the neighbor. He said there was discussion
120 regarding allowing these buildings with the permission from the neighbors. He said maybe there should
121 be some type of allowance with where the houses sit and if there is any type of conflict within the
122 neighborhood.
123

124 Council Member Bailey said the problem he has is that one neighbor may not have an issue with the
125 accessory building, but if the house sells the new neighbor may have an issue with the building. Council
126 Member Bigler said if the structure exists they don't have to buy it. Council Member Bailey said he is
127 not sure they should have zoning based on arguments between neighbors. He said he would rather they
128 take an approach based on lot size or zone.
129

130 Council Member Fawson said neighbors typically complain because of the height of a building. He said
131 he agrees with what Council Member Bigler suggested on the height.
132

133 Council Member Bailey asked Council Member Bigler is he is proposing lowering the height restriction
134 or raising it. Council Member Bigler replied lowering it. He said there are many different ordinances and
135 they should look at all of them. He said they are discussing lowering the maximum height and allowing it
136 closer to the property line. He said he would rather his neighbor have the accessory building in a back
137 corner rather than the middle of their yard. He said they are not discussing increasing the size they are
138 talking about location. He said if the height is lowered he does not see the problem with allowing it up to
139 six feet from the property line.
140

141 Council Member Bailey asked the maximum height allowed. Craig Barker replied 25 feet, but if it is less
142 than 15 feet it can be within three feet of the property line. He pointed out a typical garage is 400 square
143 feet and that can be as close as three feet from the property line if it is under 15 feet high. Council
144 Member Bigler said that 25 feet is high for most residential areas.
145

146 Council Member Bigler said most issues come up through residents and this was the case here. He said
147 the resident's accessory building is located eight feet away from the property line. It is a matter of
148 location and that is why it was brought up.
149

150 Council Member Fawson asked if it is possible to look at a sliding scale with the smaller increments. For
151 example, if it is closer to the property line it has to be lower in height. Craig Barker said that is a
152 possibility. He said they have some issues when you discuss yard space. He said there is a regulation

153 that only allows a certain amount of the rear yard to be covered with buildings. He said the ordinance
154 does allow the accessory building to be closer to the property line if the lot is over one acre, with a
155 conditional use permit. He said he thinks a sliding scale for 10,000 square foot lots may not work.

156
157 Council Member Bigler said they need to protect property rights and at the same time they need to protect
158 the neighbors' property rights and property value. He said if they lower the height and allow accessory
159 buildings to be closer to the property line, it will not ruin any neighborhoods. Craig Barker said they
160 would need to provide a height recommendation. He said currently they allow accessory buildings to be
161 up to 25 feet in height. He said that is why they asked the Planning Commission to do that. He said he
162 went out to the resident's property they were talking about and you cannot even see his neighbor's house.
163 He said somehow they need to use some common sense, this is their property and they have big lots, can
164 they change something to reflect the size of the lots.

165
166 Craig Barker said Commissioner Thomas discussed many people who build these types of accessory
167 buildings use them for specific purposes and they need a higher door to fit the RVs and boats. He said
168 they end up building a higher building than 15 feet.

169
170 Council Member Stoker agreed with lowering the height in the size of the lot. She said the Planning
171 Commission should keep in mind that depending on where a resident would want to place the building
172 would need to be lower. She said she agreed with Council Member Bailey and they should not allow this
173 based on neighbor's arguments because things do change; that shouldn't even come into a consideration.

174
175 Council Member Bailey said the issues here seem complicated. He said he understands that they allow 25
176 feet maximum height if the building is 20 feet from the property line. Craig Barker replied that is correct
177 and added that if the building is over 600 square feet, but lower than 15 feet high it can be up to 15 feet
178 from the property line. He said anything less than 600 square feet and less than 15 feet high can be up to
179 three feet from the property line.

180
181 Council Member Bailey asked what they are proposing to the Planning Commission. Council Member
182 Bigler said he is proposing to reduce the 15 foot setback requirement. He said he is not giving a specific
183 height, but wanted to pass that suggestion along for some proposals from the Planning Commission.

184
185 Council Member Bigler asked if they could have Art Stowers explain his issue.

186
187 Art Stowers, stated they are looking to build a 15 foot high building with two garage bays and a work
188 shop on the side. Craig Barker asked the square footage. Art Stowers replied 1,000 square feet. He said
189 it is 25 feet by 40 feet. Council Member Bigler said he understands he can have the building closer to the
190 property line if it is less than a certain square footage. Craig Barker replied the building would have to be
191 less than 600 square feet. Council Member Bigler said they should look at the size of lots, because that
192 size of a building is not that large in his back yard. Craig Barker pointed out a two car garage is
193 approximately 440 square feet, so he is looking at an additional 600 square feet. Art Stowers said it will
194 be used for a shop. Council Member Bigler said that footage would not work in his neighborhood. He
195 said it would be logical to look at lot sizes.

196
197 Mayor Harris asked for clarification on what they are trying to propose. Craig Barker restated the setback
198 requirements for the large accessory buildings. Mayor Harris asked if they are proposing smaller
199 setbacks. Council Member Bigler suggests they increase the 600 square foot determination.

200
201 Council Member Bailey stated the combination of his lot as well as the neighboring lots have an effect.
202 He said they need to take more into consideration than just the size of the property owner's lot because
203 there could be issues for the smaller lots that are next to larger lots. He explained there is a large building

204 in his neighborhood which has made the lots next to it less usable. He said that building feels
205 inappropriate in the neighborhood. He said they should also look at the size of adjoining lots. He said it
206 seems that they are trying to create an ordinance to fit a situation. Council Member Bigler said that is not
207 so for him. He said it seems like common sense that if you are looking at square footage you would need
208 to make it commence with the size of the lot. Council Member Bailey said on larger lots he would think
209 they would want to have larger setbacks rather than smaller setbacks. He said he thinks they would want
210 to keep the buildings farther away from the setbacks.

211
212 Council Member Fawson said it seems strange their requirements would place these buildings right in the
213 middle of a yard. He said it doesn't seem like a good use of space to him.

214
215 Mayor Harris said they may need to look at it as a conditional use. He said they may want to consider lot
216 size with conditional uses. He said the height of the building will depend on the size of the building. He
217 said they could have a maximum height. He said they may need to go through each zone individually
218 and use a sliding scale. He said there could be larger lots in smaller zones as well. He said it looks to him
219 like they need to have a sliding scale that is indexed to lot size as well as the zone. He said they could tie
220 that into a conditional use also.

221
222 Council Member Bailey asked how conditional uses work. Craig Barker explained in certain zones a use
223 may be satisfactory in one location but not another. He said those uses would need to be approved
224 through a conditional use. The conditions would be outlined such as the distance from another residence,
225 distance from property lines, certain heights, etc. Council Member Bailey asked if those conditions are
226 established through ordinance. Craig Barker replied yes.

227
228 Craig Barker explained that in the past when he worked for Weber County they dealt with a similar
229 situation. In the agricultural zones, which are the smaller half acre zones, they required that if a building
230 is 20 feet tall it would need to be a certain distance from the property line. He said if the building is 100
231 feet back from the public street the building can be closer to the property line because it has less impact
232 on the neighbor's livable space in the rear yard. He said that was one way Weber County handled it and it
233 may work in the half acre zones but it would depend on the location.

234
235 Council Member Bailey asked if the Planning Commission considered the large accessory buildings from
236 a conditional use perspective. Craig Barker replied no. Council Member Bailey said they may want to
237 look at establishing that. Craig Barker said it gets pretty complicated with the size of the lots and it may
238 take some time to consider that.

239
240 Council Member Bailey said in the smaller zones he cannot imagine anyone building anything larger than
241 the 600 square foot accessory buildings. Craig Barker said up until they made this change to the
242 ordinance they began seeing those large accessory buildings in the smaller zones. He said that is when
243 the City Council and Planning Commission decided to address it. He said people were building them
244 right up to the property line and they were 30 feet high. Council Member Bailey commented he is aware
245 of some of those buildings.

246
247 Council Member Bigler said if City Council is in agreement he would like this to go back to the Planning
248 Commission for some proposals. He said his big concern is the large buildings in the middle of the back
249 yard. He said if someone is going to build something like that it would be easier to have a driveway on
250 the side of the house. He said he would like the Planning Commission to come up with some type of
251 proposal. Craig Barker suggested there be some area size by zone to allow people with larger lots to build
252 closer to the property line.

253

254 Mayor Harris stated he thinks they will need a sliding scale based on lot size and adjoining lot size. He
255 said they may want to consider them as conditional uses. He added that they have to be careful because
256 they cannot just pick and choose. He said if there are some conditions that were specified and those
257 conditions are met then the conditional use permit must be granted.
258

259 Jon Call stated part of the issue with conditional uses is that it flips the burden. He said with a variance
260 the property owner has to prove the burden. With a conditional use a city must prove why the conditional
261 use cannot be there. He said a city would have to prove there are no reasonable conditions they could
262 require to mitigate the impacts.
263

264 Mayor Harris said the Planning Commission needs something to look at and they are having the same
265 issues as the City Council, deciding what to look at. He asked Craig Barker to write an ordinance based
266 on lot size and building size. Craig Barker stated he would be glad to. He said he will first do some
267 research and communicate with the City Attorney. He said between the two of them they can create
268 something.
269

270 Mayor Harris suggested he use lot size, building size, and some sort of sliding scale. Council Member
271 Bigler said that is fine but also the placement on a lot. He asked why the larger lots should have to put it
272 in the middle of their yard. He suggested Craig Barker look at lot size and placement.
273

274 Mayor Harris suggested Craig Barker come up with an ordinance and send it to the Council Members for
275 feedback. Council Member Bigler asked if they could get some rough drafts sent to the City Council.
276 Craig Barker replied yes.
277

278 Council Member Bailey asked if this would come back to the City Council or if it would go to the
279 Planning Commission first. Jon Call explained that since it is changing a land use ordinance the Planning
280 Commission would need to hold a public hearing before any decision is made. Council Member Bigler
281 stated that is why he was asking if they could get a draft.
282

283 Mayor Harris suggested they need to be more specific on what they give the Planning Commission for
284 their consideration.
285

286 **2. DISCUSSION AND/OR ACTION TO AMEND RESOLUTION 4-2012, RULE XV**
287 **PARAGRAPH 8 AND ADD A PARAGRAPH 9 OF THE COUNCIL RULES OF**
288 **PROCEDURE THAT DEAL WITH THE MEDIA POLICY.**
289

290 Jon Call stated the reason this is on the agenda is because some City Council Members asked if he would
291 propose some new language. He said his idea is to help facilitate between the City Council. He said he is
292 trying to create two separate paragraphs that distinguish the difference between the City policy and a
293 personal opinion as it specifically relates to the elected officials. He said their distinction with employees
294 and staff is concrete. He said if staff has a personal opinion they must disclose that. He said that is what
295 he attempted to do with the proposed language.
296

297 Mayor Harris said he is concerned because Council Member Taylor is not present and he has a large
298 investment in this issue. He said he does not know why he hasn't called in. The equipment may not be
299 working correctly. He suggested they continue it at another meeting. Council Member Bigler stated if
300 the equipment is faulty then they should wait, if he just did not call in then they should proceed.
301

302 Council Member Stoker stated she had problems calling in on a previous meeting. She stated Council
303 Member Taylor has a large investment and she doesn't know they should discuss this without him being
304 present because they may be back at it again.

305 Council Member Bigler asked if Council Member Taylor stated he would call in. Mayor Harris stated
306 there was an official request that he would call in. He said they set up the conference call equipment.
307

308 **Council Member Bailey motioned to table this to a future City Council Meeting. Council Member**
309 **Fawson seconded the motion.**

310
311 **Voting on the motion:**

312 Council Member Fawson	aye
313 Council Member Bigler	aye
314 Council Member Stoker	aye
315 Council Member Bailey	aye

316
317 **The motion passed unanimously.**
318

319 **3. PUBLIC COMMENTS.**
320

321 Philip Swanson, 1066 E. 3300 N., stated regarding accessory buildings that they should also consider
322 open space. He said he heard comment that only 25% to 30% could only be covered by buildings. What
323 about asphalt or concrete. He said there was an accessory building built in his neighborhood well over
324 750 square feet and 18 feet high. He said he thinks it is three feet from the back property line and the
325 entire back yard is covered in asphalt. He said open space should be more than buildings. He said he
326 would be concerned with run off if he lived downstream from this person. He said there is no back yard to
327 absorb anything. He said this is a new building and he doesn't know how it got built. He said they need
328 to take a look at some of these things. He asked if permits were pulled for these buildings. Mayor Harris
329 stated the ordinance was changed just last year. He stated they will make sure Craig Barker gets that
330 information.
331

332 **4. CITY COUNCIL, MAYOR, AND STAFF COMMENTS.**
333

334 Council Member Fawson stated he appreciates the responsiveness of the Public Works Department
335 putting up signs that restrict traffic in dead ends. He said a resident asked about a house being built with
336 stair wells on the outside of the building. He said he was asked by a resident about solar easements so
337 their sunlight is not restricted by neighboring trees. He said if they haven't addressed it they may want to
338 look at it. Mayor Harris said they had huge issues when the dish antennas first came out and they
339 addressed many of these issues during that time. He said he isn't sure they have anything regulations on
340 solar easements, but they will look into that.
341

342 Council Member Bigler thanked administration and staff for being attentive to residents in a timely
343 manner. He said we can't always fix residents' concerns but we can be responsive. Mayor Harris agreed
344 and stated there have been a number of requests with the crosswalks that have been taken care of quickly.
345 Council Member Bigler stated North Ogden Elementary School is very appreciative of what was done for
346 them.
347

348 Mayor Harris stated the Trails Committee asked us to look at crosswalks coming off of trails. He said
349 they have addressed that and put one cross walk in already and will put another one in where they are
350 required. He said a number of residents were concerned about crosswalks on busy streets. He said they
351 are addressing those as best as they can. He explained they sometimes require a third party to get it taken
352 care of.
353

354 Council Member Bigler stated a resident had a concern about a street light. He said this resident
355 contacted all the elected officials with frustration. He said the administration and staff got right on it. He

356 said it is Utah Power and Light's jobs to get it fixed. He said they have done everything they could do,
357 but staff was in contact with the resident right away. He said the resident appreciates the attentiveness of
358 staff.

359
360 Council Member Stoker also said thanks; she noticed the crosswalks and the orange flags. She said she
361 has also noticed the green pedestrian signs that have been put up. She asked staff to look at Mountain
362 Road and Fruitland Drive and asked if it can be repainted. Mayor Harris said some people ignore the
363 paint and the signs regardless. Council Member Fawson asked if we could look at rumble strip. Mayor
364 Harris said they will have to look at it. He said you cannot use speed bumps in the road to control traffic.
365 Council Member Stoker stated repainting the lines may work.

366
367 **5. ADJOURNMENT.**

368
369 **Council Member Fawson moved to adjourn the meeting. Council Member Bigler seconded the**
370 **meeting.**

371
372 **Voting on the motion:**

373 Council Member Fawson	aye
374 Council Member Bigler	aye
375 Council Member Stoker	aye
376 Council Member Bailey	aye

377
378 **The motion passed unanimously.**

379
380 **The meeting adjourned at 7:40pm.**

381
382
383
384 _____
385 Richard G. Harris, Mayor

386
387
388 _____
389 S. Annette Spendlove, MMC
390 City Recorder

391
392 _____
393 Date Approved